

November 18, 2004

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
NOVEMBER 18, 2004

I. OPENING OF MEETING AT 10:43 A.M. AT 425 1/2 SOUTH FOURTH STREET, SPRINGFIELD, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; George E. Richards, Raymond W. Ewell and Barbara J. Peterson, Commissioners; Daniel Stralka and Andrew Barris of the Commission staff; and Dawn DeFraties, Central Management Services.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD OCTOBER 21, 2004

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL AND THE MOTION UNANIMOUSLY ADOPTED TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD OCTOBER 21, 2004.

IV. APPROVAL OF MINUTES OF MEETING HELD NOVEMBER 5, 2004

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION UNANIMOUSLY ADOPTED TO APPROVE THE MINUTES OF THE MEETING HELD NOVEMBER 5, 2004.

V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	154.....	5
Agriculture	530.....	19
Arts Council.....	20.....	1
Capitol Development Board	16.....	0
Central Management Services	1253.....	111
Children and Family Services	3492.....	41
Civil Service Commission	5.....	0
Commerce & Econ. Opportunity	486.....	60
Commerce Commission.....	58.....	0
Corrections.....	14,375.....	114
Criminal Justice Authority	74.....	5
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	8.....	1
Elections Board.....	57.....	1
Emergency Management Agency	112.....	2
Employment Security.....	1982.....	25
Environmental Protect. Agency	1137.....	15
Fin. & Prof. Regulation.....	886.....	33
Guardianship and Advocacy	110.....	6
Historic Preservation Agency	216.....	7
Human Rights Commission	11.....	2
Human Rights Department	136.....	7
Human Services	15,584.....	62
Industrial Commission.....	168.....	7
Investment Board.....	3.....	1
Labor.....	78.....	7
Labor Relations Board Educational	16.....	2
Labor Relations Board Local.....	1.....	0
Labor Relations Board State	17.....	2
Law Enforce. Trng. & Standard Bd.	24.....	1
Medical District Comm.....	2.....	0
Military Affairs	146.....	3
Natural Resources	1622.....	28
Pollution Control Board	26.....	3
Prisoner Review Board	23.....	0
Property Tax Appeal Board	24.....	2
Public Aid	2325.....	21
Public Health.....	1155.....	28
Revenue	2160.....	56
State Fire Marshal.....	138.....	7
State Police	1514.....	5
State Police Merit Board.....	5.....	1
State Retirement System.....	79.....	1
Transportation.....	2950.....	1
Veterans Affairs	1185.....	2
TOTALS	54,370.....	696

V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE (continued)

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
 - 1. The Governor, or
 - 2. A departmental director or assistant director appointed by the Governor, or
 - 3. A board or commission appointed by the Governor, or
 - 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 - 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 - 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 - 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.
- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
 - 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 - 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board or commission.
 - 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.
 - 4. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board or commission.
 - 5. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

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V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE (continued)

- Assistant Director Andrew Barris reported that the Department of Children and Family Services stated that the position in Item C would no longer be a policy-making position. The request for rescission of 4d(3) exemption was recommended by both CMS and Commission staff.
- The Department of Aging withdrew their exemption request in Item D.
- Barris stated that Item E, Deputy Director of Finance, was responsible for the determination and execution of fiscal policy for the Department of Corrections and that the organizational chart reflected that the position met the reporting requirements of Rule 11. Therefore, the staff recommended exemption.
- The Commission staff had questions regarding the policy-making responsibilities of Item F, the Manager of Loan Originator Regulation at the Department of Financial and Professional Regulation. Commission staff member, Andrew Barris, spoke with Richard Foxman at the DFPR regarding the responsibilities of the position. Foxman explained that the position is the sole policy making/implementing position at the DFPR as it relates to the Illinois Residential Mortgage License Act of 1987 and the Illinois High Risk Home Loan Act. Foxman explained that, in addition to drafting policy for the Department as it relates to the above-mentioned statutes, the position would also be making/implementing policy regarding the licensing of in-state and out-of-state mortgage brokers and/or bankers. The position would be making/implementing policy regarding the discipline imposed on entities for violations of those statutes – in addition to insuring that any discipline imposed is consistent with the Governor’s financial growth objectives and not overly burdensome on the financial communities affected by such discipline. For these reasons, the staff recommended exemption.
- Regarding Item G1, Barris spoke to Theresa Bietsch at the Department of Public Aid. The staff had questions regarding the potential overlap of the proposed Chief Operating Officer position with other positions reflected in the organizational chart. Bietsch explained that this position would become the Chief of Staff position, acting in the capacity of the Director’s second-in-command and that the Chief of Staff position would be abolished. For these reasons, the staff recommended exemption.
- Commission staff had questions regarding the policy-making responsibilities of Item G2, the Special Assistant for Business Practices. Bietsch explained that this position is responsible for making the Department of Public Aid more efficient and effective in light of the increased volume of claims submitted to the Department, the loss of 250 temporary employees due to the collective bargaining agreement and the efficiency in all other programs offered by the DPA. For instance, claims made to the Department have substantially increased after income requirements associated with some of the assistance programs offered by the DPA were eliminated. This position will focus on the best way to handle the huge influx of claims that have resulted from the elimination of the income

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V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE (continued)

requirement. In addition, this position will save the Department and the State a considerable amount of money because the Department will not be required to hire a consulting firm to address these issues. For these reasons, the staff recommended exemption.

- The Illinois State Police requested an exemption for Item H, Chief of Human Resources in March of 2004. Due to concerns regarding the reporting requirement, the position was continued to the April meeting and it was ultimately denied because the position failed to meet the reporting requirement stated in Rule 11. The ISP has been reorganized and now the Human Resources position meets the requirements of Rule 11. For these reasons, the staff recommended exemption.
- Barris reported that Item I, the Human Resources Manager position for the Department of Financial and Professional Regulation, meets the reporting requirement and makes/implements all personnel policy of the consolidated DFPR agency. For these reasons, the staff recommended exemption.

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V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE (continued)

C. Request for 4d(3) Exemption Withdrawn

The following 4d(3) request for exemption was withdrawn prior to the November 18, 2004 meeting:

Agency:	Department on Aging
Position Title:	Public Service Administrator
Position Number:	37015-47-00-000-00-02
Division:	Executive Office
Incumbent:	Vacant
Supervisor:	Director
Location:	Sangamon County

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL AND THE MOTION UNANIMOUSLY ADOPTED TO CONTINUE, RESCIND OR APPROVE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS IN ACCORDANCE WITH STAFF RECOMMENDATION:

D. Requests for 4d(3) Exemption Continued by the Commission

The following 4d(3) requests for exemption from the Department of Central Management Services were continued at the November 18, 2004 meeting until the December 16, 2004 meeting:

Position Title:	Senior Public Service Administrator
Position Number:	40070-37-60-340-01-01
Bureau/Division:	Bureau of Property Management/Transactions & Property
Incumbent:	Vacant
Supervisor:	Manager of Transactions and Property Administration
Location:	Cook County

Position Title:	Senior Public Service Administrator
Position Number:	40070-37-60-330-01-02
Bureau/Division:	Bureau of Property Management/Transactions & Property
Incumbent:	Vacant
Supervisor:	Manager of Transactions and Property Administration
Location:	Sangamon County

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V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE (continued)

Position Title: Senior Public Service Administrator
Position Number: 40070-37-60-310-01-02
Bureau/Division: Bureau Of Property Management/Transactions and
Property Administration
Incumbent: Vacant
Supervisor: Manager of Transactions and Property Administration
Location: Cook County

E. Request for 4d(3) Exemption Rescinded by the Commission

The following request to rescind 4d(3) exemption was approved at the November 18, 2004 meeting:

Agency: Department of Children & Family Services
Position Title: Senior Public Service Administrator
Position Number: 40070-16-16-000-00-01
Division: Training and Development Services
Incumbent: Vacant
Supervisor: Deputy Director
Location: Cook County

F. Requests for 4d(3) Exemption Approved by the Commission

The following 4d(3) requests for exemption were approved at the November 18, 2004 meeting:

Agency: Department of Corrections
Position Title: Senior Public Service Administrator
Position Number: 40070-29-11-200-00-01
Division: Fiscal Services
Incumbent: Vacant
Supervisor: Deputy Director/Finance and Administration
Location: Sangamon County

V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE (continued)

Agency: Department of Financial & Professional Regulation
Position Title: Senior Public Service Administrator
Position Number: 40070-13-10-020-00-01
Division: Banks and Real Estate
Incumbent: Vacant
Supervisor: Director/Banks and Real Estate
Location: Cook County

Agency: Department of Public Aid
Position Title: Senior Public Service Administrator
Position Number: 40070-33-00-080-00-21
Division: Office of the Director
Incumbent: Vacant
Supervisor: Director
Location: Cook

Agency: Department of Public Aid
Position Title: Senior Public Service Administrator
Position Number: 40070-33-00-090-00-21
Division: Office of the Director
Incumbent: Vacant
Supervisor: Director
Location: Cook

Agency: Illinois State Police
Position Title: Senior Public Service Administrator
Position Number: 40070-21-00-300-00-01
Division: Human Resources Bureau
Incumbent: Vacant
Supervisor: Deputy Director of Administration
Location: Sangamon County

Agency: Department of Financial & Professional Regulation
Position Title: Senior Public Service Administrator
Position Number: 40070-13-03-000-00-01
Division: Human Resources Manager
Incumbent: Vacant
Supervisor: Secretary
Location: Cook County

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VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION UNANIMOUSLY ADOPTED TO HOLD AN EXECUTIVE SESSION TO CONSIDER APPEALS OF DISMISSAL FILED WITH THE COMMISSION.

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 425-1/2 South Fourth Street, Springfield, Illinois at 11:53 a.m.

PRESENT

Chris Kolker, Chairman; George E. Richards, Raymond W. Ewell and Barbara J. Peterson, Commissioners; and Daniel Stralka and Andrew Barris of the Commission staff.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services consecutive non-merit report as of October 31, 2004.

	<u>9/30/04</u>	<u>10/31/04</u>
Agriculture	8	0
Central Management Services	9	8
Children & Family Services	3	3
Comm. & Econ. Opportunity	2	2
Emergency Management Agency	1	0
Environmental Protection	1	1
Historic Preservation	20	16
Natural Resources	26	9
Prisoner Review Board	1	0
Public Aid	3	4
Public Health	0	1
State Retirement Systems	1	1
Transportation	3	1
Totals	78	47

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

- **DISCHARGE**

DA-72-04

Respondent	William O. Kelley	Appeal Date	11-19-03
Agency	Corrections	Decision Date	11-08-04
Type of Appeal	Discharge	ALJ	Daniel Stralka
Charge	Sexual Harassment; Submitting A False Incident Report; Retaliating Against A Female Correctional Officer.	Recommended Decision On Remand	Charges Partially Proven; Discharge Upheld.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION OF THE ADMINISTRATIVE LAW JUDGE THAT THE RESPONDENT, WILLIAM O. KELLEY, BE DISCHARGED FROM HIS POSITION AS PUBLIC SERVICE ADMINISTRATOR WITH THE DEPARTMENT OF CORRECTIONS.

- **DISCHARGE**

DA-93-04

Respondent	Dion P. Butler	Appeal Date	5/03/04
Agency	IDOT	Decision Date	11/05/04
Type of Appeal	Discharge	ALJ	Daniel Stralka
Charge	Failure To Answer Snow And Ice Call- Out.	Recommended Decision On Remand	Charges Proven; Discharge Upheld.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER PETERSON AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION OF THE ADMINISTRATIVE LAW JUDGE THAT THE RESPONDENT, DION P. BUTLER, BE DISCHARGED FROM HIS POSITION AS HIGHWAY MAINTAINER WITH THE DEPARTMENT OF TRANSPORTATION.

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL (continued)

- **DISCHARGE**

DA-60-04

Respondent	Oyindamola Omole	Appeal Date	9/20/03
Agency	DHS	Decision Date	11/8/04
Type of Appeal	Discharge	ALJ	Leonard Sacks Andrew Barris
Charge	Neglect.	Recommended Decision On Remand	Charges Proven; Discharge Upheld.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO REJECT THE RECOMMENDED DECISION OF THE ADMINISTRATIVE LAW JUDGE AND HEREBY REMAND THE APPEAL TO THE ADMINISTRATIVE LAW JUDGE FOR THE PURPOSE OF FURTHER PROCEEDINGS.

- **DISCHARGE**
REMAND FOR CLARIFICATION

DA-34-02

Respondent	Latina Pickett	Appeal Date	4-8-02
Agency	DHS	Decision Date	3/18/04
Type of Appeal	Discharge	ALJ	Leonard Sacks
Charge	Service Recipient Abuse.	Recommended Decision	ALJ Clarifies Basis For Finding Of Fact In Recommended Decision.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO CONCUR AND ADOPT THE SUPPLEMENTAL EXPLANATION IDENTIFYING THE BASIS IN THE RECORD FOR THE ADMINISTRATIVE LAW JUDGE'S FINDING OF FACT.

X. APPEALS TERMINATED WITHOUT DECISION

- DISMISSAL

DA-99-04

Respondent	Karla A. Powe	Appeal Date	8/9/04
Agency	DHS	Decision Date	10/28/04
Type of Appeal	Discharge	ALJ	Andrew Barris
Charge	Service Recipient Abuse.	Recommended Decision	Motion To Dismiss Granted; Appeal Dismissed.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER RICHARDS AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT BE DISMISSED.

- DISMISSAL

DA-86-04

Respondent	Maurice Levy	Appeal Date	3/12/04
Agency	IDES	Decision Date	11/3/04
Type of Appeal	Discharge	ALJ	Daniel Stralka
Charge	Insubordination; Failure To Complete Assigned Work; Unauthorized Absences/Notification Of Absence	Recommended Decision	Stipulation To Dismiss And Resignation Agreement Received. Appeal Dismissed.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER RICHARDS AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT BE DISMISSED.

X. APPEALS TERMINATED WITHOUT DECISION (continued)

• DISMISSAL

DA-18-05

Respondent	Bobby Gevrekis	Appeal Date	8/03/04
Agency	CMS	Decision Date	10/15/04
Type of Appeal	Discharge	ALJ	Andrew Barris
Charge	Non-Certified Employee.	Recommended Decision	CSC Has No Jurisdiction.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE COMMISSION IS WITHOUT JURISDICTION TO CONSIDER THE APPEAL OF THE RESPONDENT, BOBBY GEVREKIS.

XI. EMERGENCY AMENDMENT TO THE PERSONNEL RULES

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER RICHARDS AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO APPROVE THE EMERGENCY AMENDMENT TO THE PERSONNEL RULES.

XII. SEMI-ANNUAL REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO OPEN MEETINGS ACT

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION UNANIMOUSLY ADOPTED THAT AFTER SEMI-ANNUAL REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO THE OPEN MEETINGS ACT, THE MINUTES SHALL REMAIN CLOSED INDEFINITELY REGARDING ALL PERSONNEL MATTERS.

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XIII. STAFF REPORT

- Executive Director Daniel Stralka advised the Commissioners that there will be a slight change in the dates for responses to recommended decisions. With the advent of electronic communication, parties will now be allowed up to the Tuesday before a meeting in select appeals to file responses. The general rule will be 10 days from the date the decision is mailed or two days before the meeting, whichever is shorter. This will also allow additional time for the administrative law judges to draft recommended decisions.
- Executive Director Daniel Stralka also reported on the status of former Administrative Law Judge Sacks' 15 pending appeals:
 - 4 have settled or are settling;
 - 1 was disposed of at today's meeting;
 - 4 have gone to hearing and are awaiting transcripts and/or briefs;
 - 4 are set for hearing or are in progress;
 - 1 decision is being drafted; and
 - 1 is set for status, probably to be dismissed.
- Executive Director Daniel Stralka and Fiscal Officer Sandy Guppy attended the first preliminary budget meeting for FY06. Our first submissions are due December 8.
- Executive Director Daniel Stralka, Sandy Guppy and Linda Fleming attended a records meeting with Steve Jones from the Secretary of State Archives Office. Further research is necessary to update our record retention policy and process. A review of the records indicated that there has been a relatively long period of inaction in this area for the Commission.
- CMS has requested additional time to obtain the Public Information Officer listing requested at the Commission's October meeting.

XIV. ANNOUNCEMENT OF NEXT MEETING

Announcement of the next regular meeting to be held on Thursday, December 16, 2004 at 9:00 a.m. in the Commission's Chicago Office.

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XV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION UNANIMOUSLY ADOPTED TO ADJOURN THE MEETING AT 12:10 P.M.